

HOUSE BILL 23

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 13,
Chapter 23, relative to residential mortgages.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 23, is amended by adding
SECTION 2 through SECTION 7 as a new, appropriately designated part.

SECTION 2.

(a) The Tennessee housing development agency ("THDA") is hereby authorized to make uninsured homeowners' emergency mortgage assistance fund loans secured by second or third position liens on residential real property located in this state to eligible homeowners, in accordance with the provisions of this part and to the extent funds are appropriated for such purpose.

(b) The purpose of the homeowners' emergency mortgage assistance loan program shall be to loan funds to eligible homeowners in default, or at risk of default, due to an interest rate reset on a conventional subprime adjustable rate mortgage loan ("subprime ARM") originally used by the eligible homeowner to finance the acquisition of the homeowner's principal residence. Homeowners' emergency mortgage assistance fund loans made pursuant to this part shall be made to enable an eligible homeowner to bring an existing subprime ARM current; to provide equity to allow a refinancing of the existing subprime ARM to a long-term fixed, more affordable interest rate; and to pay various fees associated with a default or delinquency, if any, under an existing subprime ARM and various fees associated with a refinancing of an existing subprime ARM in accordance with the provisions of this part.

(c) No homeowner shall be eligible for a homeowners' emergency mortgage assistance fund loan if the homeowner's adjustable rate mortgage loan is a government insured or guaranteed adjustable rate mortgage including an adjustable rate mortgage loan insured or guaranteed by the federal housing administration, the veteran's administration of the United States, or the United States department of agriculture rural development.

(d) If a homeowner is actively pursuing a homeowners' emergency mortgage assistance fund loan, then all foreclosure action against the homeowner shall be stayed until the homeowners' emergency mortgage assistance fund loan is closed in accordance with this part or one hundred twenty (120) days from the date of the reset on the homeowner's existing subprime ARM that lead to eligibility for the assistance fund loan, whichever is sooner.

SECTION 3.

(a) To be eligible for a homeowners' emergency mortgage assistance fund loan, a homeowner shall meet the following requirements:

(1) The homeowner's household income is at or below one hundred fifteen percent (115%) of the state or area median income, whichever is greater;

(2) The homeowner has an existing subprime ARM on a single-family residence which is the homeowner's principal residence;

(3) The homeowner has an acceptable credit history prior to the reset of the subprime ARM. The THDA shall establish the standards to be used to determine whether a credit history is acceptable by rule;

(4) The subprime ARM has reset within sixty (60) days prior to the date of application for a homeowners' emergency mortgage assistance fund loan and the increased interest rate is the sole cause of any default existing under the

subprime ARM or the subprime ARM is scheduled to reset within sixty (60) days following the date of application for a homeowners' emergency mortgage assistance fund loan; and

(5) The interest rate reset on the subprime ARM has caused or will cause the homeowner to spend more than thirty percent (30%) of the homeowner's gross monthly household income to make the payment required on the subprime ARM, net of escrows for taxes and insurance, if any.

(b) Prior to receiving a homeowners' emergency mortgage assistance fund loan, an eligible homeowner shall contact the servicer of the subprime ARM and use tools and resources available through such servicer to address the cost burden imposed by the subprime ARM reset. In addition, the homeowner shall contact a THDA approved foreclosure prevention counselor for assistance.

(c) No otherwise eligible homeowner shall receive a homeowners' emergency mortgage assistance fund loan unless the homeowner obtains a long-term, fixed interest rate loan that will cure any default under the subprime ARM and conforms to THDA requirements.

SECTION 4. The terms of any homeowners' emergency mortgage assistance fund loan shall include the following:

(1) A maximum loan amount of fifteen thousand dollars (\$15,000);

(2) A maximum term not to exceed thirty (30) years;

(3) Repayment of the loan shall be:

(A) Monthly with interest rates not to exceed three percent (3%) simple interest for eligible homeowners with income between sixty-five percent (65%) and one hundred fifteen percent (115%) of the state or area median income, whichever is greater; or

(B) Due on sale at zero percent (0%) interest for eligible homeowners with income below sixty-five percent (65%) of the state or area median income, whichever is greater;

(4) The deed of trust securing the homeowners' emergency mortgage assistance fund loan may be in a subordinate, second or third lien position in relation to the long-term, fixed interest rate loan obtained by the eligible homeowner to refinance the subprime ARM; and

(5) The closing of the homeowners' emergency mortgage assistance fund loan shall be concurrent with the closing of the long-term, fixed interest rate loan obtained by the eligible homeowner to refinance the subprime ARM.

SECTION 5.

(a) The homeowners' emergency mortgage assistance fund is created as a separate THDA account for the sole purpose of implementing this part. Investment and interest earnings on moneys from this fund may be used by THDA for administrative costs associated with carrying out the program of making homeowners' emergency mortgage assistance fund loans. No THDA funds, moneys or earnings other than the homeowners' emergency mortgage assistance fund and moneys and earnings appropriated to or generated by such fund shall be used for homeowners' emergency mortgage assistance fund loans.

(b) The homeowners' emergency mortgage assistance fund shall operate as a revolving loan fund to which shall be credited all repayment of principal and interest for homeowners' emergency mortgage assistance fund loans made pursuant to this part, together with funds appropriated to this fund by the general assembly.

(c) All interest and earnings of this fund shall remain a part of this fund. No part of the fund shall revert to the general fund on any June 30, but shall remain a part of the

fund available for expenditure in accordance with the provisions of this part.

(d) THDA shall have no obligation to fund homeowners' emergency mortgage assistance fund loans if, at any time, the general assembly has not appropriated sufficient moneys to the homeowners' emergency mortgage assistance fund for such purpose.

SECTION 6. THDA shall report to the general assembly annually, either separately or through the annual report prepared in accordance with § 13-23-125, on the effectiveness of the homeowners' emergency mortgage assistance fund loan program.

SECTION 7. The Tennessee housing development agency board of directors is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 8. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 9. For the purposes of promulgating rules and publishing forms this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2010, the public welfare requiring it.